



DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-907]

Sodium Nitrite from India: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of sodium nitrite from India. The period of investigation is January 1, 2021, through December 31, 2021.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Eva Kim, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-8283.

SUPPLEMENTARY INFORMATION:

Background

On June 21, 2022, Commerce published the *Preliminary Determination* in the *Federal Register*.¹ For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and

¹ See *Sodium Nitrite from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With the Final Antidumping Duty Determination*, 87 FR 36824 (June 21, 2022) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, "Issues and Decision Memorandum for the Final Determination of the Countervailing Duty Investigation of Sodium Nitrite from India," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Decision Memorandum can be accessed directly at
<https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The products covered by this investigation are sodium nitrite from India. For a complete description of the scope of this investigation, *see* Appendix I.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs by parties in this investigation, are discussed in the Issues and Decision Memorandum. For a list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, *see* Appendix II of this notice.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient and that the subsidy is specific.³ For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

In making this final determination, Commerce relied, in part, on facts otherwise available, including adverse inferences, pursuant to sections 776(a) and (b) of the Act. For a full discussion of our application of facts available (AFA), *see* the section “Use of Facts Available and Adverse Inferences” in the accompanying Issues and Decision Memorandum.

Verification

Consistent with section 782(i) of the Act, in October 2022, Commerce verified all information reported by Deepak Nitrite Limited (Deepak). We used standard verification

³ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

procedures, including an examination of relevant accounting records and original source documents provided by the respondent.⁴

Changes Since the *Preliminary Determination*

Based on our review and analysis of the information at verification and comments received from interested parties, we made certain changes to the subsidy rate calculations for Deepak. Consequently, Commerce also revised the all-others rate. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated an individual estimated countervailable subsidy rate for the sole mandatory respondent, Deepak. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, Commerce will determine an all-others rate equal to the weighted-average countervailable subsidy rates established for exporters and/or producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act.

In this investigation, Commerce calculated a net countervailable subsidy rate for Deepak, the only individually examined exporter/producer in this investigation. Because the only subsidy rate calculated in this investigation is not zero, *de minimis*, or based entirely on facts otherwise available, the net countervailable subsidy rate calculated for Deepak is the subsidy rate assigned to all other producers and exporters, pursuant to section 705(c)(5)(1)(A)(i) of the Act.

Final Determination

Commerce determines that the following estimated net countervailable subsidy rates exist:

Company	Subsidy Rate (percent <i>ad valorem</i>)
Deepak Nitrite Limited	2.40
All Others	2.40

⁴ *See* Memorandum, “Verification of the Questionnaire Responses of Deepak Nitrite Limited,” dated October 19, 2022.

Disclosure

Commerce intends to disclose to interested parties its calculations performed in this final determination within five days of any public announcement, or if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise from India that were entered, or withdrawn from warehouse, for consumption, on or after June 21, 2022, which is the date of publication of the *Preliminary Determination* in the *Federal Register*. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation of all entries of subject merchandise entered or withdrawn from warehouse, on or after October 19, 2022, but to continue the suspension of liquidation of all entries of subject merchandise between June 21, 2022, and October 18, 2022.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of sodium nitrite from India. As Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the

domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of sodium nitrite from India. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding APO

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: December 30, 2022.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The product covered by this investigation is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by this investigation may or may not contain an anticaking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. Sodium nitrite's chemical composition is NaNO_2 , and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name "sodium nitrite" to sodium nitrite. The CAS registry number is 7632-00-0. For purposes of the scope of this investigation, the narrative description is dispositive, not the tariff heading, CAS registry number or CAS name, which are provided for convenience and customs purposes.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum:

- I. Summary
- II. Background
- III. Subsidies Valuation
- IV. Use Of Facts Available and Adverse Inferences
- V. Analysis Of Programs
- VI. Analysis Of Comments
 - Comment 1: Whether Provision of Land for Less Than Adequate Remuneration (LTAR) Is Countervailable
 - Comment 2: Whether Commerce Correctly Calculated the Benefits for Provision of Land LTAR
 - Comment 3: Whether the Selection of Land LTAR Benchmark Is Appropriate
 - Comment 4: Whether the Provision of Coal for LTAR Is Countervailable
 - Comment 5: Whether Commerce Correctly Calculated the Benefit for Provision of Coal LTAR
 - Comment 6: Whether Commerce Correctly Calculated the Benchmark for Provision of Coal LTAR
 - Comment 7: Whether Commerce Should Find that Section 35(1)(iv) of the Income Tax Act (ITA), 1961 Is a Countervailable Program
 - Comment 8: Whether Commerce Correctly Calculated the Benefits for Section 35(1)(iv) of the Income Tax Act, 1961
 - Comment 9: Whether Commerce Should Find that Deepak Failed To Report Benefits Under Other Subsections for Section 35 of the ITA
 - Comment 10: Whether Commerce Should find Should Find that Deepak and Deepak Fertilizers and Petrochemicals Corporation (DFPCL) are Cross-owned Affiliates
 - Comment 11: Whether Commerce Should Find That Other Indian Producers Did Not Cooperate, and Assign a Rate Based on Adverse Inferences (AFA) to These Other Exporters
 - Comment 12: Whether Commerce Should Calculate Benefits for Status Holder Incentive Scheme (SHIS)
 - Comment 13: Whether Commerce Should Correct the Duty Drawback (DDB) Calculation
 - Comment 14: Whether Commerce Should Calculate Benefits Under the Merchandise Export from India Scheme (MEIS)
 - Comment 15: Whether Commerce Chose the Appropriate Benchmark for the Gujarat Industrial Development Corporation (GIDC) Preferential Water Rates Program
 - Comment 16: Whether Commerce Correctly Calculated a Benchmark Representing the Delivered Price of Natural Gas
- VII. Recommendation